

RUSSELL L. WINNER, ABA 7811149
WINNER & ASSOCIATES, P.C.
900 W. 5th Avenue, Suite 700
Anchorage, AK 99501
Telephone: (907) 277-9522
Facsimile: (907) 277-4510
Email: rwinner@winnerlaw.com

Attorneys for Plaintiff Raymond Plaintiff

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

RAYMOND C. GIVENS,
Plaintiff,

v.

WALLACE OENGA,
Defendant.

**DECLARATION OF
RUSSELL L. WINNER**

Case No. 3:19-cv-00043-HRH

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. I am the attorney for Plaintiff Raymond C. Givens in this action. I make this declaration in support of Plaintiff's Motion To Enforce Judgment and Rule 70(a) Order, filed herewith.

2. Attached as Exhibit 1 is a true and correct copy of a letter (minus the enclosures sent with that letter), dated November 12, 2019, that was hand delivered and emailed on that date to Lynnette Tubbs, Fiduciary Trust Officer, Office of the Special Trustee for American Indians, Alaska Region. A copy of this letter was also sent via email on that date to Joshua Kindred, Regional Solicitor for Alaska, U.S. Department of the Interior.

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3. As of today's date, I have not received a response from either Ms. Tubbs or Mr. Kindred.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 6th day of December, 2019, at Anchorage, Alaska.

s/ Russell L. Winner
900 West Fifth Avenue, Suite 700
Anchorage, Alaska 99501
Phone: (907) 277-9522
Fax: (907) 277-4510
E-mail: rwinner@winnerlaw.com
ABA No. 7811149

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WINNER & ASSOCIATES

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

900 WEST FIFTH AVENUE

SUITE 700

ANCHORAGE, ALASKA 99501-2044

RUSSELL L. WINNER
rwinner@winnerlaw.com

TELEPHONE (907) 277-9522
FACSIMILE (907) 277-4510
WEBSITE www.winnerlaw.com

November 12, 2019

Confidential

Hand Delivered and Sent Via Email (lynnette_tubbs@ost.doi.gov)

Lynnette Tubbs, Fiduciary Trust Officer
Office of the Special Trustee for American Indians, Alaska Region
U.S. Department of the Interior
3601 C Street, Room 216
Anchorage, AK 99503

Re: *Raymond C. Givens v. Wallace Oenga*,
U.S. District Court for Alaska, Case No. 3:19-cv-00043 HRH

Dear Ms. Tubbs:

I write on behalf of Raymond Givens regarding the above-referenced case. As you may know, Mr. Givens represented the heirs of Andrew Oenga, including Wallace Oenga, as their attorney in protracted litigation against the Bureau of Indian Affairs ("BIA"), U.S. Department of the Interior, and BP Exploration (Alaska), Inc. ("BP") and other major oil companies. This multi-venue litigation sought an increase in the amount paid annually by BP to the heirs of Andrew Oenga for rent of a restricted Native allotment at Prudhoe Bay.

At great personal expense and professional risk – he depleted his savings to fund the costs of the litigation and he essentially dropped all other clients during this multi-year litigation – Mr. Givens won for the Oenga heirs a large lump-sum payment and a seven-fold increase in future annual rental payments made by BP for its lease of the allotment. That lease runs through 2036.

The Oenga heirs could not afford to pay Mr. Givens by the hour for his representation of them, so they agreed up front and in writing that he would be paid a contingency fee from any lump sum payment and increased rental payments, if he were to succeed in the litigation. Their payment obligation to Mr. Givens is 25% of the annual rents paid for the allotment. BP makes those payments to the BIA, which in turn transfers the funds to the Office of the Special Trustee for American Indians, Alaska Region ("OST"), U.S. Department of the Interior, where they are placed in the Individual Indian Money ("IIM") accounts of each of the Oenga heirs.

In 2017, Wallace Oenga stopped directing OST to pay Mr. Givens 25% of his share of the annual rents received, in violation of Mr. Oenga's obligations under the contingency fee contract with

Lynnette Tubbs, Fiduciary Trust Officer
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Mr. Givens. Mr. Givens was forced to bring suit against Mr. Oenga in the above-referenced federal action. Mr. Oenga failed to appear in the action, and on June 10, 2019, the Court entered default judgment against him. (Doc. 29)¹ There, the Court also directed Mr. Oenga to instruct OST to pay to Mr. Givens the amounts owed to him from Mr. Oenga's IIM account. When Mr. Oenga failed to comply, on July 9, 2019, the Court, acting under Federal Rule of Civil Procedure 70(a), directed the Clerk of Court, acting on behalf of Mr. Oenga, to sign OST Forms 01-004 instructing OST to pay Mr. Givens from Mr. Oenga's IIM account. (Doc. 39) On July 9, 2019, those instructions were signed by the Clerk of Court (Doc. 40 for past monies owed; Doc. 41 for future monies owed) On July 10, 2019, these instructions were served on OST. (Doc. 45)

Also on July 10, 2019, Mr. Oenga filed a notice of appeal of the District Court's judgment to the Ninth Circuit Court of Appeals. (Doc. 44) However, Mr. Oenga did not seek a stay of the District Court's judgment or its orders. Accordingly, the Clerk of Court's instructions to OST were not suspended or stayed by Mr. Oenga's appeal.

In any event, on October 17, 2019, the Ninth Circuit dismissed Mr. Oenga's appeal for failure to prosecute, and the Ninth Circuit issued a mandate returning the case to the District Court. (Doc. 52) Accordingly, the District Court has reassumed full jurisdiction over this case.

OST is obligated to follow the instructions of the District Court and the Clerk of Court, acting on behalf of Mr. Oenga, to pay from Mr. Oenga's IIM account the amount he owes to Mr. Givens. If OST does not do so by **November 26, 2019**, Mr. Givens has instructed me to take appropriate legal action against OST.

Please let me know if you need any additional information from me.

Thank you for your attention to this matter.

Very truly yours,



Russell L. Winner

Enclosures

cc: Ray Givens, w/out encls., via email
Joshua Kindred, Regional Solicitor, Alaska, w/out encls., via email

1 Enclosed with this letter are the referenced Court documents.